

20.4 DEFINITIONS

(a) Unless otherwise specifically provided, the terms used in this section have the following meanings:

(1) *Antenna.* A wireless antenna and its associated equipment. The term includes a macro cell antenna and a microcell antenna.

(2) *Applicant.* The Service Provider(s) of the Facilities that are proposed to be located within the City, or Service Provider(s)'s authorized representative.

(3) *Associated Equipment.* All on-site equipment, including, without limitation, back-up generators and power supply units, cabinets, meter boxes, cooling devices, conduit, coaxial and fiber optic cables, connections, shelters, radio transceivers, regular power supply units, and wiring, to which a wireless antenna is attached in order to facilitate the operation and support of the Facilities.

(4) *Base Station.* A structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined or any equipment associated with a tower. Base Station includes, without limitation:

(A) Equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

(B) Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems ("DAS") and small-cell networks).

(5) *Collocation.* The location of two or more Facilities owned or used by one or more than one entity on a single support structure or otherwise sharing a common location.

(6) *Distributed Antenna System ("DAS").* A system of small antennas installed on existing infrastructure such as telephone poles and streetlights throughout an area, which are interconnected by fiber optic cable to a central hub location, and are generally designed to support multiple wireless carriers. A system of Small Cell Facilities as defined and regulated by this section does not include a Distributed Antenna System.

(7) *Eligible Facilities Request.* Any request for modification of an existing tower or base station that, within the meaning of the Spectrum Act, does not substantially change the physical dimensions of that tower or base station, and involves (A) the Collocation of new transmission equipment, (B) the removal of transmission equipment, or (C) the replacement of transmission equipment.

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- (8) *Eligible Support Structure.* Any existing tower or base station that exists at the time the application is filed with the city.
- (9) *Equipment Cabinet.* A structure that contains, protects, and conceals the Associated Equipment. An Equipment Cabinet may also include the equipment necessary to allow for the undergrounding of PG&E meters and other Associated Equipment related to the functioning of the Wireless Facility.
- (10) *Existing.* The tower or base station has been previously reviewed and approved under the applicable city zoning or siting process, or under another applicable state or local regulatory review process so that the Facility is controlled by the Spectrum Act.
- (11) *Facility or Facilities:* All forms of Facilities of any size or type including Small Cell Wireless Facilities.
- (12) *FCC.* The Federal Communications Commission or successor agency.
- (13) *Personal Wireless Services.* Wireless Facilities as defined in 47 U.S.C. § 332(c)(7)(C)(i), as may be amended or superseded, which defines the term as commercial mobile services, unlicensed wireless services and common carrier wireless exchange access services.
- (14) *Pre-approved Designs.* Pre-approved design concepts consistent with the generally applicable design regulations to clarify the aesthetic and public safety goals and standards in this chapter. The City Manager or his or her designee, may develop, and from time to time amend the pre-approved designs. The pre-approved designs shall provide more detailed standards to implement the general principals articulated in Section 20.■, and may include specific standards for particular wireless facilities or site locations, but shall not unreasonably discriminate between functionally equivalent service providers. Minor amendments and revisions to the preapproved designs may be reviewed and approved by the City Manager. In the event that a conflict arises between the development standards specified in this chapter and the pre-approved designs adopted under this section, the development standards specified in this chapter shall control. Applicants are encouraged to, but not required to utilize pre-approved design concepts.
- (15) *Preferred Designs.* Design Concepts identified in Section 20.■
- (16) *Project.* A Facility to be located in Belmont for which a permit is required by the city.
- (17) *Public Right-of-Way.* All public streets and utility easements, now and hereafter owned by the City or other public entity, but only to the extent of the City or public entity's right to grant a license or permit to occupy and use streets and easements for wireless communication facilities is permitted by law.
- (18) *Public Works Director.* The current Director of Public Works or his/her designee.

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(19) *RF*. Radio frequency on the radio spectrum.

(20) *Readily Visible*. An object that can be seen from street level by a person with normal vision, and distinguished as an antenna or other component of a Facility, due to the fact that it stands out as a feature of the landscape, protrudes above or out from the structure ridgeline, or is otherwise not sufficiently camouflaged or designed to be compatible with the appurtenant architecture or building materials.

(21) *Section 6409(a)*. Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (codified as 47 U.S.C. Section 1455(a)) refers to certain specific changes to existing facilities which if all applicable standards are met are entitled to a ministerial Permit, granted by the approval authority. See Section 20.■ for applicable standards.

(22) *Small Cell Wireless Facility*. Small Cell Wireless Facilities are defined by the following dimensions or characteristics:

(A) The small cell Antenna(s) on the structure, excluding certain Associated Equipment as specified in this subsection, totals no more than six cubic feet in volume, whether an array or separate;

(B) Any individual piece of any Associated Equipment located on a pole structure, except those specified in this subsection that does not exceed nine cubic feet;

(C) The cumulative total of any Associated Equipment located on a pole structure, except those specified in this subsection, that does not exceed 21 cubic feet;

(D) The cumulative total volume of any ground-mounted, structure-mounted, or pole-mounted equipment, along with all Associated Equipment, except those specified in this subsection does not exceed 35 cubic feet;

(E) A micro wireless facility, is defined as a small cell that is no larger than 24 inches long, 15 inches in width, 12 inches in height, and that has an exterior antenna, if any, no longer than 11 inches; and,

(F) For the purposes of this subsection, the following types of Associated Equipment are excluded from the calculation of equipment volume:

- (i) Electric meters and any required pedestal;
- (ii) Concealment elements, such as a stealth facility;
- (iii) Any telecommunications demarcation box;
- (iv) Grounding equipment, power transfer switch;

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- (v) Cutoff switch;
 - (vi) Vertical cable runs for the connection of power and other services; and,
 - (vii) Equipment concealed within an existing building or structure.
- (2) For the purposes of this section, a Small Cell Wireless Facility does not include the following:
- (A) Wireline backhaul facility, which means a facility used for the transport of communications data by wire from wireless facilities to a network.
 - (B) Coaxial or fiber optic cables that are not immediately adjacent to or directly associated with a particular Antenna or Collocation.
 - (C) Underlying vertical infrastructure, which means poles or similar facilities owned or controlled by the City that are in the public Right-of-Way or public utility easements and meant for, or used in whole or in part for, communications service, electric service, lighting, traffic control, or similar functions.
- (23) *Spectrum Act*. Section 6409(a) of the Middle Class Tax Relief Act and Job Creation Act of 2012, 47 U.S.C. § 1455(a) (providing, "... a State or local government may not deny, and shall approve, any Eligible Facilities Request for a modification of any existing wireless Tower or Base Station that does not substantially change the physical dimensions of such Tower or Base Station.").
- (24) *Substantial Change*
A request to modify an eligible facility must be approved if it does not result in a substantial change to an existing tower or base station (i.e. wireless facility). Modifications "substantially change" a facility if the modification will do one or more of the following:
- 1. Increase the height more than:
 - (a) 10% or one additional antenna array not more than 20 feet (whichever is greater) higher for towers on private property, or
 - (b) 10% or 10 feet (whichever is greater) for towers in the public rights-of-way and all base stations;
 - 2. Increase the width more than:
 - (a) 20 feet or the tower width at the level of the appurtenance (whichever is greater) for towers on private property, or
 - (b) six feet for towers in the public rights-of-way and all base stations;
 - 3. Install more than four (4) equipment cabinets;
 - 4. Involve any excavation outside either:
 - (a) the lease or license area on private property, or

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- (b) the “proximity” to the ground-mounted equipment in the ROW;
- 5. Defeat the existing concealment elements of the tower or base station; or
- 6. Violate a prior condition of approval that does not conflict with FCC standards for a “substantial change” under 1-5 above.
- (25) *Support Structure*. A pole, tower, base station, or building, whether or not it has an existing antenna facility, that is used for the provision of personal wireless service.
- (26) *Tolling Agreement*. A written agreement between the City and an applicant that suspends or pauses the timeframe that the City is required to act upon an application for an agreed upon amount of time.
- (27) *Tower*. Any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antenna, including any structure that is constructed for a Facility. This term does not include a base station.
- (28) *Transmission Equipment*. Is equipment that facilitates transmission of any FCC-licensed or authorized Facility.
- (29) *Wireless Facility*. Is any antenna, associated equipment, base station, system, tower, or transmission equipment, not including a Small Cell Wireless Facility located in the City of Belmont.

20.5 APPLICATION

- (a) *Compliance Required*. No permit applications will be deemed complete unless the Applicant has submitted all required application materials and applicable fees, as described in this section.
- (b) *Presubmittal Conference*. Before application submittal, Applicants are strongly encouraged to schedule and attend a presubmittal conference with City staff for all Facility applications. The presubmittal conference is intended to foster cooperative discussion between Applicants and staff, identify potentially avoidable issues and generally streamline the application review process.
- (c) *Application Materials*. A complete application for a Facility Permit must include the following documents and information:
 - (1) A completed and signed application. The Planning Department or Public Works Department provides form application materials. The application must be signed by the Applicant or by the Applicant’s authorized agent or representative.
 - (2) A sworn statement entitled “Compliance Verification” by the Applicant or by the Applicant’s authorized agent or representative, stating that the application holds all applicable licenses or other approvals required by the Federal Communications Commission (FCC), the

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California Public Utilities Commission (PUC), and any other agency of the federal or state government with authority to regulate telecommunications facilities that are required in order for the applicant to construct the proposed facility. This requirement includes compliance with all conditions imposed in conjunction with such federal and state licenses or approvals, a description of the number, type, power rating, frequency range, and dimensions of the proposed Antennas, Equipment Cabinets, and related Facilities, and engineering calculations demonstrating that the proposed Facility will comply with all applicable FCC and PUC requirements and standards.

(3) Applications for small cell wireless and 6409 eligibility permits shall include: 1) an affirmative statement that the subject application meets the definition of these type of facilities; and 2) reference to specific graphics, schematics and plan pages that demonstrate compliance with standards for small cell wireless or 6409 eligibility permits, as applicable.

(4) Projects on a PG&E utility pole shall be consistent with the development and attachment standards identified in Section unless the applicant can demonstrate that such deviations are necessary for compliance with PG&E requirements identified by PG&E in CPUC General Order 95.

(5) Proof of Legal Right to Use Property. Applications for Facilities must be accompanied by evidence satisfactory to the City, demonstrating the property owner's consent or other form of proof demonstrating Applicant's legal right to use the property upon which the Applicant proposes to attach the Facility. Failure to demonstrate a legal right to utilize the property upon which a Facility is attached is grounds for permit denial or after issuance, revocation.

(6) Site Plans and Layouts. Applicants must submit the following information with the application in hardcopy. Six copies are required.

(A) Map and Inventory of Proposed Sites. Applicant must provide a map of the proposed site(s) including photographs of the City-owned light pole(s) as appropriate, where the Facility(ies) is/are proposed to be located. The map must show all land uses within 300 feet of the proposed Wireless facilities.

(B) Photo Simulations of Facility and Associated Equipment. Applicant must provide photo simulations showing the placement of the proposed Facility. The simulation must show where the Facility is proposed to be placed and where the Associated equipment (cables, power sources, electricity, and any other items required to operate and support the Facility) is proposed to be located and how they will be camouflaged to comply with the requirements of this section. To the extent that any street furniture is requested, photo simulations of the street furniture must be provided. The proposed location and treatment of the Facility and any Associated Equipment must comply with the aesthetic requirements described in this section.

(C) Drawings and Plans. Applicant must furnish site plan, plans, and elevations drawn to scale that identify the proposed Facility and Associated Equipment placement. Elevations must include all structures on which facilities are proposed to be located. All proposed structures, including Associated Equipment must be drawn to scale on the elevations, and Emergency signage must be shown.

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(D) Camouflage or Matching Methods. Applicant must provide both a description of methods proposed to stealth the Facility and all Associated Equipment, and colors and materials specifications.

(E) Identify all Associated Equipment. Plans must identify and depict all Associated Equipment required to support the Facility, including, but not limited to, emergency generators, air conditioning equipment, cables, and power sources.

(7) Fee Requirements. An application for a Facility permit must be accompanied by the following fee(s):

(A) Fees for the appropriate permits required for the application, including, but not limited to all Wireless Facilities Permit, Encroachment Permit, Change Permits and building permits.

(B) City Processing Fees. City application and permit processing fees will be those fees in effect at the time the Applicant files its application.

(C) All fees for application review are nonrefundable.

(8) Noise Report. A Noise Report may be required for wireless facilities installations when air conditioning or cooling units and any other equipment that may emit noise that would be audible from 50 feet beyond the Public Right-of-Way is included as part of the project. The reports shall include a noise assessment, acoustical design for noise control and noise compliance certification.

(9) Structural Analysis. An analysis or report prepared by a qualified engineer demonstrating that the pole proposed for installation meets or exceeds such City standards, and that the proposed installation would not interfere or harm the structural integrity or standards of the light poles, including, but not limited to, safety and load bearing capability for the proposed Wireless Facility.

(10) Radio Frequency (RF) Report. A Radio Frequency – Electromagnetic Energy (RF-EME) Compliance Report, prepared by a qualified electrical engineer. The RF-EME Report models proposed wireless facility installations to determine RF-EME exposure levels from existing and proposed wireless communications equipment at a particular site. The report summarizes the results of RF-EME modeling in relation to relevant Federal Communications Commission (FCC) Maximum Permissible Exposure (MPE) Limits for general public exposures and occupational exposures.

20.6 REVIEW PROCEDURE

- (a) Timeframe for Action. Except in instances when the City has entered into a tolling agreement with the applicant, the review authority must approve, approve with conditions, or deny WFP projects within the time frames provided in Table 20.6(a).

Table 20.6(a) Wireless Facilities Permit Type – Timeframe for Action

Application Type	Timeframe
6409(a) modification applications	60 Days
Small wireless facilities – collocated or attached to existing support structures	
Collocation of non-small cell wireless facilities	90 Days
Installation of non-small cell wireless facilities on existing support structures	
New small wireless facilities that include new support structures	
New non-small cell wireless facilities that include new support structures	150 Days

- (b) Tolling of Applications. The timeframes for action identified in Table 20.6(a) begin at application submittal, and are “tolled” or paused when an application has been found to be incomplete. The City has 30 days to determine whether an initial application is complete. If the application is not complete, the city must provide a written incomplete notice to the applicant that cites any application defects.

After the applicant responds, if the application remains incomplete for any reasons stated in the original incomplete notice, the city must issue a second incomplete notice within 10 days (for 6409 and small cell applications). In all cases, the city cannot deem an application incomplete for reasons not cited in the first notice. Time frames are not tolled to allow for noticing or appeals.

- (c) In order to adhere to expedited time frames in Table 20.6(a), the city requires additional information at the time of application submittal, including:
- (1) Radio Frequency (RF) Reports are required to be submitted with all WFP project applications.
 - (2) Facilities located within the Public Right of Way require concurrent review and approval of an Encroachment Permit.
 - (3) Facilities located on city-owned support structure (i.e., light poles and traffic signals) require: 1) approval of a master license agreement (MLA); and 2) a structural evaluation by an engineer to ensure that the structure can support the facility. The MLA is required prior to submittal for a wireless facilities permit and an encroachment permit.
 - (4) Small Cell Wireless and 6409 Eligible applications require concurrent submittal of building permit applications.